

ASSEMBLY BILL

No. 2384

Introduced by Assembly Member Gilmore

February 19, 2010

An act to amend Sections 830.2 and 830.5 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2384, as introduced, Gilmore. Peace officers: correctional officers: parole agents.

Under existing law any member of the Office of Correctional Safety of the Department of Corrections and Rehabilitation is a peace officer if his or her primary duties are the investigation and apprehension of inmates, wards, parolees, parole violators, or escapees from state institutions, among other duties, as provided. Under existing law parole officers of the department are peace officers but may only carry a firearm if approved by the director of the department on a case-by-case or unit-by-unit basis.

This bill would include a parole officer of the department in the same category of peace officers as a member of the Office of Correctional Safety if his or her primary duties are those described above for a member of the Office of Correctional Safety to qualify as a peace officer.

This bill would make conforming and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 830.2 of the Penal Code is amended to read:

830.2. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the Department of the California Highway Patrol including those members designated under subdivision (a) of Section 2250.1 of the Vehicle Code, provided that the primary duty of the peace officer is the enforcement of any law relating to the use or operation of vehicles upon the highways, or laws pertaining to the provision of police services for the protection of state officers, state properties, and the occupants of state properties, or both, as set forth in the Vehicle Code and Government Code.

(b) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(c) A member of the California State University Police Departments appointed pursuant to Section 89560 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(d) (1) Any member of the Office of Correctional Safety *or any parole officer* of the Department of Corrections and Rehabilitation, provided that the primary duties of the peace officer shall be the investigation or apprehension of inmates, wards, parolees, parole violators, or escapees from state institutions, the transportation of those persons, the investigation of any violation of criminal law discovered while performing the usual and authorized duties of employment, and the coordination of those activities with other criminal justice agencies.

(2) Any member of the Office of Internal Affairs of the Department of Corrections and Rehabilitation, provided that the primary duties shall be criminal investigations of Department of Corrections and Rehabilitation personnel and the coordination of those activities with other criminal justice agencies. For purposes of this subdivision, the member of the Office of Internal Affairs shall possess certification from the Commission on Peace Officer

Standards and Training for investigators, or have completed training pursuant to Section 6126.1 of the Penal Code.

(e) Employees of the Department of Fish and Game designated by the director, provided that the primary duty of those peace officers shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(f) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

(g) The Director of Forestry and Fire Protection and employees or classes of employees of the Department of Forestry and Fire Protection designated by the director pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(h) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any of these peace officers shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(i) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officers shall be the enforcement of the law as prescribed in that section.

(j) The Inspector General, pursuant to Section 6125, and the Chief Deputy Inspector General, Chief Assistant Inspector General, Deputy Inspector General In Charge, Senior Deputy Inspector General, Deputy Inspector General, Senior Assistant Inspector General, Special Assistant Inspector General, and those employees of the Inspector General as designated by the Inspector General, are peace officers, provided that the primary duty of these peace officers shall be conducting audits of investigatory practices and other audits, as well as conducting investigations, of the

1 Department of Corrections and Rehabilitation, Division of Juvenile
2 Justice and the Board of Parole Hearings.

3 SEC. 2. Section 830.5 of the Penal Code is amended to read:

4 830.5. The following persons are peace officers whose authority
5 extends to any place in the state while engaged in the performance
6 of the duties of their respective employment and for the purpose
7 of carrying out the primary function of their employment or as
8 required under Sections 8597, 8598, and 8617 of the Government
9 Code. Except as specified in this section, these peace officers may
10 carry firearms only if authorized and under those terms and
11 conditions specified by their employing agency:

12 (a) A parole officer of the Department of Corrections ~~or the~~
13 ~~Department of the Youth Authority~~ *and Rehabilitation, including*
14 *the Division of Juvenile Facilities*, probation officer, deputy
15 probation officer, or a board coordinating parole agent employed
16 by the ~~Youthful Offender~~ *Parole Board of Parole Hearings*. Except
17 as otherwise provided in this subdivision, the authority of these
18 parole or probation officers shall extend only as follows:

19 (1) To conditions of parole or of probation by any person in this
20 state on parole or probation.

21 (2) To the escape of any inmate or ward from a state or local
22 institution.

23 (3) To the transportation of persons on parole or probation.

24 (4) To violations of any penal provisions of law which are
25 discovered while performing the usual or authorized duties of his
26 or her employment.

27 (5) To the rendering of mutual aid to any other law enforcement
28 agency.

29 For the purposes of this subdivision, “parole agent” shall have
30 the same meaning as parole officer of the Department of
31 Corrections ~~or of the Department of the Youth Authority and~~
32 *Rehabilitation*.

33 Any parole officer of the Department of Corrections, ~~the~~
34 ~~Department of the Youth Authority, or the Youthful Offender~~
35 ~~Parole and Rehabilitation or the Board of Parole Hearings~~ is
36 authorized to carry firearms, but only as determined by the director
37 on a case-by-case or unit-by-unit basis and only under those terms
38 and conditions specified by the director or chairperson. The
39 ~~Department of the Youth Authority of Corrections and~~
40 *Rehabilitation, Division of Juvenile Facilities*, shall develop a

1 policy for arming peace officers of the Department of the Youth
2 Authority of Corrections and Rehabilitation, Division of Juvenile
3 Facilities, who comprise “high-risk transportation details” or
4 “high-risk escape details” no later than June 30, 1995. This policy
5 shall be implemented no later than December 31, 1995.

6 The Department of the Youth Authority of Corrections and
7 Rehabilitation, Division of Juvenile Facilities, shall train and arm
8 those peace officers who comprise tactical teams at each facility
9 for use during “high-risk escape details.”

10 (b) A correctional officer employed by the Department of
11 Corrections and Rehabilitation or any employee of the Department
12 of the Youth Authority of Corrections and Rehabilitation, Division
13 of Juvenile Facilities, having custody of wards or the Inspector
14 General of the Youth and Adult Correctional Agency or any
15 internal affairs investigator under the authority of the Inspector
16 General or any employee of the Department of Corrections and
17 Rehabilitation designated by the Director Secretary of the
18 Department of Corrections and Rehabilitation or any correctional
19 counselor series employee of the Department of Corrections and
20 Rehabilitation or any medical technical assistant series employee
21 designated by the Director Secretary of the Department of
22 Corrections and Rehabilitation or designated by the Director of
23 Corrections secretary and employed by the State Department of
24 Mental Health or employee of the Board of Prison Terms
25 designated by the Secretary of the Youth and Adult Correctional
26 Agency or employee of the Department of the Youth Authority of
27 Corrections and Rehabilitation, Division of Juvenile Facilities,
28 designated by the Director of the Youth Authority Chief Deputy
29 Secretary, Division of Juvenile Facilities, or any superintendent,
30 supervisor, or employee having custodial responsibilities in an
31 institution operated by a probation department, or any
32 transportation officer of a probation department.

33 (c) The following persons may carry a firearm while not on
34 duty: a parole officer of the Department of Corrections or the
35 Department of the Youth Authority and Rehabilitation, including
36 the Division of Juvenile Facilities, a correctional officer or
37 correctional counselor employed by the Department of Corrections
38 and Rehabilitation or any employee of the Department of the Youth
39 Authority Corrections and Rehabilitation, Division of Juvenile
40 Facilities, having custody of wards or any employee of the

1 Department of Corrections *and Rehabilitation* designated by the
2 ~~Director~~ *Secretary of the Department of Corrections and*
3 *Rehabilitation*. A parole officer of the ~~Youthful Offender Parole~~
4 *Board of Parole Hearings* may carry a firearm while not on duty
5 only when so authorized by the chairperson of the board and only
6 under the terms and conditions specified by the chairperson.
7 Nothing in this section shall be interpreted to require licensure
8 pursuant to Section 12025. The ~~director~~ *secretary* or chairperson
9 may deny, suspend, or revoke for good cause a person's right to
10 carry a firearm under this subdivision. That person shall, upon
11 request, receive a hearing, as provided for in the negotiated
12 grievance procedure between the exclusive employee representative
13 and the Department of Corrections *and Rehabilitation*, ~~the~~
14 ~~Department of the Youth Authority~~, or the ~~Youthful Offender~~
15 ~~Parole Board of Parole Hearings~~, to review the ~~director's~~
16 *secretary's* or the chairperson's decision.

17 (d) Persons permitted to carry firearms pursuant to this section,
18 either on or off duty, shall meet the training requirements of Section
19 832 and shall qualify with the firearm at least quarterly. It is the
20 responsibility of the individual officer or designee to maintain his
21 or her eligibility to carry concealable firearms off duty. Failure to
22 maintain quarterly qualifications by an officer or designee with
23 any concealable firearms carried off duty shall constitute good
24 cause to suspend or revoke that person's right to carry firearms
25 off duty.

26 (e) The Department of Corrections *and Rehabilitation* shall
27 allow reasonable access to its ranges for officers and designees of
28 either department to qualify to carry concealable firearms off duty.
29 The time spent on the range for purposes of meeting the
30 qualification requirements shall be the person's own time during
31 the person's off-duty hours.

32 (f) The ~~Director~~ *Secretary of the Department of Corrections*
33 *and Rehabilitation* shall promulgate regulations consistent with
34 this section.

35 (g) "High-risk transportation details" and "high-risk escape
36 details" as used in this section shall be determined by the ~~Director~~
37 ~~of the Youth Authority~~ *Chief Deputy Secretary, Division of Youth*
38 *Facilities*, or his or her designee. The ~~director~~ *chief deputy*
39 *secretary*, or his or her designee, shall consider at least the
40 following in determining "high-risk transportation details" and

1 “high-risk escape details”: protection of the public, protection of
2 officers, flight risk, and violence potential of the wards.

3 (h) “Transportation detail” as used in this section shall include
4 transportation of wards outside the facility, including, but not
5 limited to, court appearances, medical trips, and interfacility
6 transfers.

7 (i) *This section does not apply to a parole officer of the*
8 *Department of Corrections and Rehabilitation who is a peace*
9 *officer pursuant to paragraph (1) of subdivision (d) of Section*
10 *830.2.*